

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Hickory Ridge Realty, LLC, Douglas J. Harper, Manager

Date Application filed with the Town Clerk: December 13, 2004

Nature of request: To amend Condition #7 of Special Permit FY1969-014 in order to permit the clubhouse cocktail lounge and dining facility to be operated as a restaurant open to the general public, under Sections 3.315 and 10.33 of the Zoning Bylaw.

Location of property: 191 West Pomeroy Lane, Amherst (Map 19D, Parcel 10, R-O/FPC Zone)

Legal notice: Published on January 12th and 19th, 2005 in the Daily Hampshire Gazette and sent to abutters on January 10, 2005.

Board members: Ted Rising, Joan Golowich, Susan Pynchon

Submissions: The applicant submitted:

- Plans of the two levels of the building showing the dining room, lounge, pro shop, etc of the clubhouse, drawn by Center Street Architects in 1992. Changes to the deck area since 1992 were noted.
- A management plan, picture of the clubhouse and sample menu, submitted in December 2004, and an amended plan submitted 4/11/05
- A partial narrative of the evolution of the clubhouse into a public restaurant, written by attorney C. Barry Waite, dated 1/14/05
- An e-mail written by Alden Johnson, former owner of Hickory Ridge, dated January 23, 2005. Mr. Johnson listed the types of public events held at the club through the years in addition to golf banquets, including 12+ different fund raisers for charitable purposes, support for 6 different student athletic programs, and over a dozen different types of regular events (weddings, political events, local businesses, etc.)
- A site plan of the clubhouse and parking lots, by Anderson Associates, dated Feb., 2005

Town staff submitted:

- An aerial map showing the golf course in relation to the neighborhood
- Notes from the Assistant Fire Chief, dated 1/26/05 and 4/11/05, concerning access for the Fire Department, and fire protection systems needed for the restaurant
- Memos from the zoning staff assistant, dated 1/25/05, 3/25/05 and 4/7/05, concerning zoning and parking requirements for a restaurant as an accessory use to the golf course.
- A site plan from the 1992 Special Permit. The differences between what was approved and what has evolved were noted.
- A 1993 decision from the Architectural Access Board stating that the clubhouse does not need additional accessible access to the porch added to the north side of the building.
- A copy of the annual liquor license issued to the Hickory Ridge Country Club, dated November, 2004. The hours of operation on the permit are 11:00 AM to 12:00 midnight.

A letter from Evelyn Bloom, 150 West Pomeroy Lane, was submitted at the January 27th hearing, stating that she was concerned about late night noise if the use of the lounge/restaurant expanded.

Site Visit: January 25, 2005

The Board met with Dan Doyle, part-owner of the golf course. The Board observed:

- The 1992 site plan of the parking and lighting and a comparison to existing conditions.
- The dining/function room, the adjacent outside deck and the lounge
- An enclosed porch adjacent to the lounge that was added since the 1992 plan
- The relation of the parking lot to the clubhouse and the golf course
- The two entrances, one accessible, the other not.
- Lighting, including the two flood lights in the parking area, and new signage at the main entrance

Public Hearing: January 27, 2005

Attorney Barry Waite spoke at the hearing. Golf course owners Doug and Kathy Harper also were present.

Mr. Waite said that no change is expected in the operation of the golf course or restaurant. There will be no addition to the building or expansion of the facilities. Dinners for the public will not be any more frequent than what exists at present. The owners merely want to validate with the Town what has been happening for years – i.e., that the restaurant is open to the public.

Mr. Waite gave a brief historical summary:

- In 1969 a group of local golfers, including Ted Johnson, Denny Stiles, Geoffry Cornish and Bill Robinson applied for a Special Permit for a 138-acre private golf club, with plans for other sports activities as well.
- The golf course was never private, he said; the club accepted outside players in order to make the business more financially viable.
- In 1992, the club applied to the ZBA in order to expand their facilities. The Board approved the parking plan submitted at the time.
- In 1992, Tom Brock, president of the country club association, indicated that the “golf course” was a public facility and included accessible parking in the plan.
- Alden Johnson’s email stated that the club and restaurant has accepted outside functions for over 30 years.
- Hickory Ridge has been a good citizen of Amherst and has provided many services. For example, Mr. Johnson’s email listed thirty-some outside functions that have occurred at the clubhouse over the years.

Mr. Harper stated that the club wants to rectify with the Town what should have been done earlier. In terms of restaurant hours for the public, Mr. Harper said that during the golf season, the restaurant and lounge usually are open at 11 AM and close at 9 PM. During the winter, the club serves lunch and dinner two nights per week. He did not indicate the hours for tournaments and other functions.

The Board expressed concern about the management and parking plans that had been submitted. That is:

- The number of special functions, hours of operation, live entertainment and number of employees used for special functions are not listed on the management plan,
- Recycling of paper, bottles and cans, etc. is not listed on the management plan as is required in the Board of Health refuse and recycling regulations
- The parking plan needs to be updated to reflect what is there and to follow the regulations of Section 7.11 of the Zoning By-Law. That is, landscaped islands should be provided for every 25 spaces.
- Outside lighting needs to be clearly marked on the site plan, particularly in the parking lot, as required by Section 7.103 of the Zoning By-Law. Additional lighting may be needed.
- Additional handicapped spaces, particularly at the lower level near the pro shop, may be needed.

The Board noted that parking does not seem adequate for the use on the site. Although the staff memo submitted to the Board indicated that 85 parking spaces are needed for the basic operations of the clubhouse alone, and current lot has 106 spaces, there still is a problem.

Board member Susan Pynchon observed that parking often occurs along Pomeroy Lane. Visibility is poor, and it can be quite dangerous for drivers along the street as well as for the patrons of Hickory Ridge. Mr. Harper stated that parking along Pomeroy may be more of a convenience than a necessity. Better enforcement by the club management is needed. Also, he would welcome the Town installing "No Parking" signs along Pomeroy Lane to help control the problem.

Mr. Harper stated that the club sponsors about 19-20 functions per year. Seven of their golf tournaments and other functions result in overflow parking. At that time, the extra lot, a grassy, non-paved area to the east of the paved lot, is used. Employees direct the patrons to the additional parking area at that time. Also, a golf cart is used to shuttle guests to and from the overflow parking areas during these times.

Evelyn Bloom, 150 West Pomeroy Lane, stated that she lives across the street from the parking lot. She said that Hickory Ridge is a "lovely neighbor", but sees problems if the use of the restaurant and bar is expanded. The late night patrons can be very noisy in the parking lot, she said. She said that she is in favor of clubs, but wants to limit late nighttime activity at this location.

ZBA Chair Ted Rising suggested that a landscape architect/engineer redesign the parking and lighting to make the area more safe and comfortable in the evening. Specifically, the Board would like plans with more definite information concerning the "no-parking" areas, signage, accessibility, lighting and landscaping. The applicant replied that he would be willing to submit such a plan.

Mr. Waite stated that in order to conform to the Bylaw landscaping and lighting requirements, the total number of parking spaces would be less, which would create more problems in peak times.

Bonnie Weeks, the Building Commissioner, said that the Board can waive some of the green areas, but that a redesign is needed. The Board does not have enough information at present in order to make clear findings for a decision with conditions.

The applicant stated that he would have a landscape engineer redesign the parking plan according to Bylaw specifications. Also he will obtain more information concerning the hours and number of the extra functions that will be shown on an updated management plan.

Joan Golowich moved to continue the hearing to March 24, 2005. Susan Pynchon seconded the motion. The Board voted unanimously to continue the hearing to March 24, 2005.

Public Hearing (cont.) March 24, March 30, April 11, 2005

March 24th – The petitioner developed a scheduling conflict. The hearing was continued to March 30, 2005.

March 30th - The parking and lighting plan had not been submitted for board/staff review, so the hearing was continued again to April 11, 2005.

At the April 11th hearing, Doug Harper, Kathy Harper and attorney Barry Waite were present.

ZBA Chair Ted Rising began by stating that he has asked the Board staff assistant to write a letter to the Select Board requesting that “No Parking” signs be installed along Pomeroy Lane. This will be the first of several steps to improve parking at the course. The petitioner agreed that this is needed.

Mr. Harper asked about the “no parking” recommendation on the south side of the island in front of the clubhouse. He would like to keep the spaces on the southerly side closest to Pomeroy Lane because of the elderly patrons who come to dine. The Fire Department memo of 4/11/05 recommended removing all parking at the entranceway (5 spaces) and around the island except for the handicapped accessible spaces, including the 4 spaces on the southerly side. The Planning Director recommended the same, except for removing just one space on the southerly side of the island– the southwestern one at the curve. The turning radius would then be adequate for all but the largest fire trucks to circle the island. Pumper and ladder trucks can back up if needed.

ZBA member Joan Golowich suggested that instead of eliminating the 4 southerly spaces, the island could be reduced in size in order to accommodate the turning radius needed for emergency vehicles. This would preserve the spaces close to the building for the elderly and help the handicapped parking as well.

Another suggestion was to move that parking closer to Pomeroy Lane and widen the driveway. Mr. Harper stated that the land along Pomeroy is too wet to move the parking any closer to the road.

Mr. Harper stated that he recently learned that the two main flood lights of the parking lot, one on the easterly end of the lot and the other along Pomeroy had not been working. The electric company is responsible, and has repaired them. Mr. Harper said that, in his opinion, lighting in the parking area is now quite good. As a result, the proposed pole lamp shown on the site plan, the north-westerly end of the main parking area may not be needed. He requested that it not be installed.

ZBA member Susan Pynchon said that she drives by the parking lot regularly, and will note whether the current lighting is adequate but unobtrusive to the neighbors at night.

Ms. Golowich noted that the existing lights, two on the clubhouse, and two at the easterly side of the lot, are all directed into the parking area. They should not negatively impact the neighbors.

Mr. Harper stated that they'll accept all other recommendations from the planning and fire departments. This includes:

- The elimination of parking at the entranceway and in front of the clubhouse,
- Landscaped islands at the ends of the rows of parking spaces, plus two additional islands in the middle of the long parking rows.
- Identification of the plantings, trees, shrubs and groundcover for the parking lot islands.
- All handicapped parking spaces will be sized, marked and signed as per ADA/AAB regulations.
- The photo-metrics for the existing and proposed site lights will be submitted to the Board.
- The elimination of the parking on the east side of the main entry drive near the clubhouse.
- Marking all the "No Parking" areas along the entry drive and in front of the clubhouse on the pavement and with signs. Enforcement of keeping these emergency access lanes open will be the responsibility of staff.

Mr. Rising wondered if the overflow parking area should be screened along Pomeroy Lane in order to protect the neighbors from headlights and noise at night. The petitioner responded that the overflow happens for tournaments during the day, and cars in the overflow lots are gone by early evening. Also, for overflow parking, golf carts take the people to and from their cars.

Mr. Rising noted that the Management Plan submitted by the petitioner estimated 34 golf outings and 30 dinner parties with 90 or more people attending. Since golf outings are limited to about five months of the year, it means that there are at least one or two events per week during the golfing season that need parking in the overflow lots.

The petitioner responded that he heard the Board's concern, and would take measures if a problem develops. To date there have been no complaints, and the petitioner wants to remain a good neighbor to the homes across the street.

The number of employees listed on the Management Plan was reviewed. Because of the variety of events possible on site, the number of employees varies quite a bit. For maintenance staff, the size varies from 4 to 15 persons, depending on the need and season. Parking for this staff is below at the maintenance shed, which has its own parking area. The restaurant staff varies from 7 to 15, depending on the event. This staff parks in the main lot, as does the pro shop staff (two or three persons.)

Mr. Rising noted that waste and recycling is not listed on the Management Plan. Mr. Harper said that he is currently reviewing several options. Trash/recycling management will be included as a condition of the permit.

The Board noted that lighting is still an unknown for the site. Mr. Waite assured the Board that photo metrics for the existing lighting will be provided.

In terms of signage, one sign exists, and the petitioner indicated that there will be no change to it. The Board indicated that there needs to be a light at the entranceway.

Mr. Waite assured the Board again that the use is not going to change on the site. It will remain as a golf course with the restaurant as an accessory use.

Susan Pyncheon moved to close the evidentiary part of the hearing. Joan Golowich seconded the motion. The vote was unanimous.

Public Meeting:

The Board agreed that the Hickory Ridge golf course and dining facility has been a great benefit to the community. They also commended the petitioners for their willingness to upgrade their parking facility in order to conform to the parking and lighting requirements of the Zoning Bylaw.

The Board reviewed the conditions of the original Special Permits FY69-14 and FY1992-64. They determined that thirteen conditions of the previous permits are still relevant for this application. The Board noted that additional conditions will be needed to reflect the evolution in use of the facility over the last 15-20 years.

Findings:

Section 3.315 of the Bylaw allows, via a Special Permit, an outdoor recreational use with an accessory structure, in an R-O Zoning District. In addition, Section 10.33 of the Bylaw allows the ZBA to modify or amend a Special Permit after a public hearing has been held.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, that:

10.380, 10.381 & 10.384 – A public restaurant, as an accessory to the golf course, is suitably located and compatible with the existing use of dining/lounge for the golf club members. Although located in a residential district, the parcel abuts a business village center zoning district that contains other eating facilities.

10.382 & 10.393 – The proposal will not constitute a nuisance due to noise, dust or light since most of the functions occurring in the clubhouse do not last late at night, the parking lot is paved, and the lighting does not face the abutting homes across the street. The structures and site features on site are well maintained.

10.383 - 10.387 – The proposal won't be an inconvenience or hazard to abutters, vehicles or pedestrians because parking and lighting improvements will be made via conditions of this permit. Parking along Pomeroy Lane and around the clubhouse will be omitted. The clubhouse has appropriate facilities; parking will be more compatible to dining and community functions.

10.388 – The proposal ensures adequate space for off-street loading and unloading of materials since the parking lot will now be more open around the building.

10.389 – The proposal provides adequate methods of disposal for refuse and recyclables since a fenced area is designated in the parking lot, and proper recycling will be required in the conditions of this permit.

10.390, 10.391 & 10.394– The proposal ensures protection from flood hazards and protects the unique and scenic features of the site. The Fort River runs through the property and has been dealt with properly by the maintenance staff for over 35 years.

10.392, 10.393 & 10.396 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. Moreover, the proposal provides protection by minimizing the intrusion of exterior lighting in the parking lot. All of these protections will be shown on the site plan submitted for review on 5/26/05.

10.396 – The proposal provides adequate recreational facilities - much open space for the golfers, walkers, and wintertime skiers.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw because a restaurant open to the public at this scenic location is a benefit to the community and

promotes the general welfare of residents throughout the area.

Zoning Board Decision:

Susan Pynchon moved to approve the petition with conditions. Joan Golowich seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to grant a Special Permit to Hickory Ridge Reality, LTD to amend Condition #7 of ZBA Special Permit FY69-14 to allow the lounge and dining facilities to be operated as a restaurant open to the general public, under Sections 3.315 and 10.33 of the Zoning Bylaw, on the premises at 185-191 West Pomeroy Lane, (Map 19D/Parcel 10, R-O/FPC Zone), subject to conditions.

TED RISING

JOAN GOLOWICH

SUSAN PYNCHON

FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Hickory Ridge Reality, LLC to amend Condition #7 of ZBA Special Permit FY69-14 to allow the lounge and dining facilities to be operated as a restaurant open to the general public, under Sections 3.315 and 10.33 of the Zoning Bylaw, on the premises at 185-191 West Pomeroy Lane, (Map 19D/Parcel 10, R-O Zone), subject to following conditions.

1. The conditions of this Special Permit shall supersede all conditions from previous Special Permits.
2. Hours of operation for the restaurant and banquet room shall be from 11 AM to 12 midnight, seven days per week.
3. The number of employees shall be as reflected on the Management Plan, namely: 7-15 persons for the food and beverage operation, 2-3 for the golf shop, and 4-15 for the golf course maintenance staff.
4. Management of the restaurant and lounge shall be as shown on the Management Plan approved by the ZBA at a public meeting dated April 11, 2005 and on file in the zoning office.
5. Plans for proper management of trash and recycling shall be submitted to the Board for review and approval at a business meeting on May 26, 2005.
6. Six (6) copies of a site plan showing all site improvements, renovations, lighting, plantings, signs and overflow parking areas shall be submitted to the Board for review at a business meeting on May 26, 2005.
7. Photo metric data of existing lighting shall be submitted to the Board for review at the business meeting on May 26, 2005
8. Parking shall be prohibited directly in front of the clubhouse. In addition one space at the south-west corner of the island in front of the clubhouse and four (4) spaces along the entranceway shall be removed. These "No Parking" areas shall be marked on the pavement and with signs.
9. All new plantings shown on the site plan shall be installed and continuously maintained.
10. Any future changes in signs or lighting shall be presented to the ZBA for review at a business meeting.
11. The bridges over the Fort River shall continue to provide sufficient clearance above the water in order to permit passage of a manned canoe beneath the bridge structure.
12. All utility lines shall be placed underground.
13. The retail sale of goods in the clubhouse pro shop shall be limited to items associated with the principal use, the golf course, and other recreational services available on the land such as cross country skiing.
14. Any noise complaints from abutters concerning the overflow parking lot shall trigger the need to consider the addition of protective screening of the overflow lot along Pomeroy Lane to be brought to the Board as an amendment under the provisions of Condition #15.

15. Any proposed improvements or future changes to the uses of the property or any new construction shall be subject to review by the ZBA, and may require modification of the Special Permit.
16. The distribution and number of handicapped parking spaces shall conform to the Rules and Regulations of the Architectural Barriers Board, and shall include at least two (2) spaces at the north-west corner of the main parking lot.
17. Clubhouse employees shall park in the lower main parking lot. There shall be no employee parking on the upper level in front of the clubhouse.
18. If the number of functions described in the Management Plan increases by 25% or more, then an application for an amendment to this Special Permit shall be submitted to the ZBA.

TED RISING, Chair
Amherst Zoning Board of Appeals

DATE